

NR 3/12/82
Internal Revenue Service

No Protest Received:
Date: 10-13-82

Department of the Treasury

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

EIN: [REDACTED]
DO: Cleveland

SEP 3 1982

Dear Applicant:

We have completed our consideration of your application for recognition of exemption from federal income tax under section 501(c)(6) of the Internal Revenue Code.

The information submitted discloses that you were incorporated, under the laws of the State of [REDACTED], on [REDACTED], as a unit owner's association for the government of the [REDACTED] property. The property is a medical office building on the grounds of the [REDACTED].

The condominium was constructed in the winter of [REDACTED] and was first occupied in [REDACTED]. Interim financing was provided by [REDACTED], and its Board and Administrative Officers were involved in the proposal, development, and completion of the project. A ground lease of the property upon which the condominium is built has been negotiated with [REDACTED] which maintains ownership of the ground.

The owners of the Condominium Association all are (and must be) on the medical staff of the [REDACTED]. Such persons have their offices in the building and individually own their own suites. They pay a fee each month to the Condominium Association, which, in turn, manages the building, handles all maintenance in and out of the building, and takes care of all repairs to the building and its grounds. ([REDACTED] itself is a member of the Condominium Association because of its ownership of one of the condominiums, which the hospital uses for data processing.) Voting rights are based on the percentage of ownership of the building.

You, the Association, own no assets as each doctor or suite owner owns each suite.

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues, chambers of commerce, and boards of trade not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having some common business interest, the purpose of which is to promote such interest and not to engage in a regular business of a type ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade and its activities should be directed to the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons.

It has been established as a matter of statutory construction that in employing popular names in describing many of the organizations exempted under Subchapter F of the Code, such as "business leagues", "chambers of commerce", "labor organizations" and others, Congress is presumed to have had reference to organizations as they actually exist and are commonly known. United States v. Cambridge Loan and Building Co., 278 U.S. 55 (1928), Commercial Travelers Life and Accident Association v. Rodway, 235 F. 370 (1913). This means that where the requisite characteristics of the organizations exempted by such terms are not otherwise fixed by regulations or statute, the Service is required to look to the characteristics of such organizations as they have commonly come to be known in actuality. It means also that successful applicants for exemption must be shown to possess at least the essentially characteristics of the class of organizations commonly known by such names. In the case of business leagues, the common business interest is the general economic welfare of the line of business (or profession), and not a segment thereof.

Thus, in National Muffler Dealers Assn., Inc. v. United States, 440 U.S. 472 (1979), the Supreme Court held that a trade organization for muffler dealers that confined its membership to dealers franchised by Midas International Corporation and its activities to Midas' muffler business was not a "business league" within the meaning of section 501(c)(6) of the Code, because Midas muffler franchises do not constitute a line of business.

Similarly, in Rev. Rul. 73-411, 1973-2 C.B. 180, it is held that a shopping center merchants association whose membership is restricted and required of the tenants of a one-owner shopping center and their common lessor, and whose activities are directed to promoting the general business interests of its members, does not qualify as a business league or chamber of commerce under section 501(c)(6) of the Code. In so holding, the Rev. Rul. concludes that the structural features of the organization lack the essential characteristics of a chamber of commerce or similar organization, and also concludes, with respect to its operations as follows:

Both the compulsory membership feature of the organization and the limitation of its membership to the tenants and owner of the center are directly related to the owner-tenant relationship of the parties comprising the organization and are designed to serve the owner's individual business interests in the operation of the center. The organization's activities thus include those of a landlord-tenant association and as such directly assist the owner in facilitating the management and operation of his real estate enterprise.

To the extent the activities of the organization serve purposes, they are not activities directed at improvement of business conditions of one or more lines of business or business conditions of any community as a whole, within the meaning of section 501(c)(6) of the Code. They serve instead the individual business interests of the owner of the shopping center and, therefore, fall outside the scope of the exemption accorded by section 501(c)(6). Cf. Produce Exchange Stock Clearing Ass'n. v. Helvering, 71 F. 2d 142 (2d Cir. 1934); Medical Diagnostic Ass'n., 42 B.T.A. 510 (1940), acq., 1940-2 C.B. 5; Rev. Rul. 68-265, 1968-1 C.B. 265.

The same conclusion applies with respect to those phrases of the organization's activities that relate to the maintenance of the common areas of the building and the landscaping of the grounds. Maintenance includes but is not limited to painting, cleaning and certain utility expenses. These activities are characteristic of a tenants' association, rather than of a chamber of commerce or trade association and fall short of supporting any section 501(c)(6) exemption for the organization because they primarily serve special interests of the members related to their status as tenants of a common facility rather than any common business purposes in relation to the status of the members as representatives of the commercial interests of a community.

In your case, the structure of your organization, limited as it is to condominium owners, does not encompass the "line of business" as required by section 501(c)(6) of the Code and the regulations thereunder. Furthermore, your actual operations are not activities directed at the improvement of business conditions of one or more lines of business within the meaning of section 501(c)(6); instead, they serve the interests of the condominium owners and, therefore, fall outside the scope of exemption accorded by such section.

Therefore, you do not qualify for recognition of exemption from federal income tax under section 501(c)(6) of the Code.

You are required to file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted in duplicate within 21 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

[REDACTED]

If we do not hear from you within 21 days, this ruling will become final and copies of it will be forwarded to the District Director, Cleveland, Ohio. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

Sincerely yours,

[REDACTED]
Chief, Rulings Section
Exempt Organizations
Technical Branch

cc: DD Cleveland
Attn: EOD Group

cc: [REDACTED]

DISTRICT DIRECTOR
INTERNAL REVENUE SERVICE

FEB 9 1963

TECHNICAL STAFF
CLEVELAND, OHIO